

Title 7. Harbors and Navigation
Division 2. State Board of Pilot Commissioners for the Bays of
San Francisco, San Pablo and Suisun
Commission Investigator Minimum Standards

INITIAL STATEMENT OF REASONS

SPECIFIC PURPOSE OF THE REGULATION

The proposed regulation will establish the minimum standards for Commission Investigators. Commission Investigators are used by the Board to investigate and report on misconduct or navigational incidents involving a vessel piloted by a licensed pilot or inland pilot.

NECESSITY

Harbors and Navigation Code section 1156, subdivision (e) provides that the Board may contract and employ commission investigators and shall adopt regulations for the minimum standards for a commission investigator that shall include, but are not limited to, a basic knowledge of investigative techniques and maritime issues.

The Board proposes to delete Section 202(k), which defines “Investigator”. As the result of new legislation that went into effect on January 1, 2009 the term “Commission Investigator” is now defined in the statute and is unnecessary in the regulation.

Section 211.5 will provide the minimum qualifications for an applicant for the Commission Investigator. Subsection (a) will require the applicant to meet two of six established minimum standards. The six minimum standards provide the applicant alternative ways to meet the minimum maritime and investigative knowledge required to perform as a Commission Investigator.

The list of minimum qualifications will provide an opportunity both for those with formal education and for those who come up through the ranks to meet the minimum qualifications. The regulations allow for an individual coming up through the ranks to qualify for the Commission Investigator because a person who starts out at the bottom working as ordinary seaman, then able bodied seamen, can qualify for a licensing school that prepares them for the United States Coast Guard (USCG) exam for 3rd mates license. Once a 3rd Mates License is achieved they can follow the same path in upgrading licenses as an officer with a degree.

Subsection (a)(1) requires the applicant to possess or have possessed a USCG license as Master of either Master of Ocean, Near Coastal or Inland vessels of any gross tons and shall have served at least two years as Master aboard vessels. This will insure the applicant is familiar with the maritime issues as required in statute.

Subsection (a)(2) requires the applicant to possess or have possessed a USCG license as Chief Engineer, unlimited horsepower, of steam or motor vessels and shall have served at least two

years as Chief Engineer aboard vessels. This is required to insure the applicant is familiar with the maritime issues as required in statute.

Subsection (a)(3) requires the applicant to possess education equivalent to a four year degree from a maritime academy. This will insure that the applicant is familiar with the maritime issues as required in statute.

Subsection (a)(4) requires the applicant to possess or have possessed a Federal Pilot's endorsement for San Francisco Bay and/or Bays of San Pablo and Suisun, which demonstrates their knowledge of the area in which they would be holding investigations.

Subsection(a)(5) requires the applicant to possess three years of experience in shipboard duties as chief mate or chief engineer, and two years as a marine superintendent, port engineer, or equivalent. This requirement provides an applicant with an engineering background an opportunity to qualify for the position by requiring additional experience as a superintendent or port engineer to insure that they are familiar with the maritime issues as required by statute.

Subsection (a)(6) requires the applicant to possess three years of experience as a senior marine USCG investigating officer, such as a Captain or Commander. This requirement will ensure that an applicant with a USCG investigating officer background is familiar with the maritime issues as required by statute.

Subsection (a)(7) provides that for purposes of complying with the service requirements in the subsection (a)(1), (a)(2) and (a)(5), a year shall be defined as a minimum of 360 days performing the duties of the qualifying position. It is consistent with practice in the industry. The scheduling in this industry can require numerous months on the job and then a number of months off. The 360-day requirement does not apply to Coast Guard officers, who do not fit the "months on, months off" work schedule, but instead are full-time government employees who take vacation and sick leave.

Subsection (b) requires the applicant to demonstrate experience in investigative techniques. This subsection requires either practical experience or formal training in investigations, both which will meet the statutory requirements of basic knowledge of investigative techniques. Subsection (b)(1) requires two years experience in either marine incident investigations or shipboard experience that includes marine investigations. The alternative, in subsection (b)(2) provides that the applicant can qualify with 30 hours or more of training in marine incident investigation instead of actual work experience. The training must be from a training program in the marine industry. There are training programs provided by the National Transportation Safety Board and the Det Norske Veritas as well as other well known programs.

Subdivision (c) requires a Commission Investigator to possess a current Transportation Worker Identification Credential card. All transportation workers are required to possess this credential to gain unescorted access to secure areas of facilities and vessels as regulated by the Maritime Transportation Security Act. Therefore this is a condition of employment or contracting by the

Board, since Commission Investigator will be required to board vessels and facilities related to the incidents they are investigating.

TECHNICAL, THEORETICAL, AND /OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS

The Board did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE OFFICE'S REASON FOR REJECTING THOSE ALTERNATIVES

No other alternatives were presented to or considered by the Board. This regulation implements Harbors and Navigation Code section 1156, subdivision (e).

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Board has not identified any alternatives that would lessen any adverse impact on small business. This proposed regulation will not affect small business.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The Board has determined that the proposed regulations would not have a significant adverse economic impact on businesses. This regulation will only affect individual persons and businesses with qualified investigators applying for a position as a Commission Investigator with the Board.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.